

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

**SANDRA RED BEAR, SURVIVING SPOUSE)
OF MARCUS RED BEAR, DECEASED,)
INDIVIDUALLY, AND SANDRA RED BEAR)
AS THE MOTHER AND GUARDIAN)
OF MINORS ALLYSA RED BEAR,)
MARCUS RED BEAR, JR.,)
MALANI RED BEAR, GABRIELLE)
CAMIEO RED BEAR, MARIAH RED BEAR,)
AND ACHILLES RED BEAR, CHILDREN OF)
THE DECEASED,)**

Plaintiffs,

v.

CSX TRANSPORTATION, INC.

Defendant.

No.: _____

JURY DEMAND

NOTICE OF REMOVAL

TO: Sidney W. Gilreath
GILREATH & ASSOCIATES
550 Main Street, Suite 600
P.O. Box 127
Knoxville, TN 37901-1270

Charles W. Armbruster, III
Michael T. Blotevogel
ARMBRUSTER, DRIPPS,
WINTERSCHEIDT & BLOTEVOGEL, LLC
219 Piasa Street
P.O. Box 8338
Alton, IL 62002

Please take notice that on June 11, 2009, Defendant, CSX Transportation, Inc., filed with the United States District Court for the Middle District of Tennessee, Nashville, Division, this

Notice of Removal in the above-styled civil action. This Notice of Removal is filed upon the following grounds:

1. This action is removable pursuant to 28 U.S.C. § 1441(a) because it is one in which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1). It is a civil action where the matter of controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and costs, and the parties are completely diverse.

2. This action was filed on May 28, 2009, by Plaintiffs, in the Second Circuit Court for Davidson County, Tennessee. The case number in the State court action is 09C1817.

3. This Notice of Removal is timely in accordance with 28 U.S.C. § 1446(b), as it is being filed within thirty (30) days of June 4, 2009, when CSXT was served with the Complaint by certified mail. True and correct copies of all process, pleadings, notices and orders which have to date been served upon CSXT in the action in the Second Circuit Court for Davidson County, Tennessee, are attached to this Notice as **Exhibit 1**.

4. No further proceedings have been had in this action. The time within which to answer the Complaint has not expired, and CSXT has not yet appeared in this case in the Second Circuit Court for Davidson County, Tennessee.

5. Notice of the filing of the removal of this action has been provided to all counsel and the Circuit Court Clerk for Davidson County, Tennessee at Nashville. A copy of that notice is attached to this Notice as **Exhibit 2**.

6. The undersigned counsel has read this Notice of Removal, and to the best of his knowledge, information and belief, formed after a reasonable inquiry, it is well-grounded in fact; is warranted by existing law or an extension or modification of existing law; and is not brought

for any improper purpose such as to harass or cause unnecessary delay or needlessly increase in the cost of this litigation.

WHEREFORE, CSXT respectfully gives notice of the removal of this civil action pending against it in the Second Circuit Court for Davidson County, Tennessee, to the United States District Court for the Middle District of Tennessee at Nashville. CSXT requests that the United States District Court for the Middle District of Tennessee at Nashville accept this Notice of Removal, and that it assume jurisdiction of this civil action and issue such further Orders as may be necessary to bring before this Court all proper parties for disposition hereof.

Respectfully submitted,

s/Christopher W. Cardwell

Gareth S. Aden
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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2009, a copy of the foregoing Notice of Removal was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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s/Christopher W. Cardwell